

NEBRASKA DEPARTMENT
OF INSURANCE

BEFORE THE DEPARTMENT OF INSURANCE
STATE OF NEBRASKA

NOV 22 2004

FILED

STATE OF NEBRASKA)
DEPARTMENT OF INSURANCE,)

CONSENT ORDER

PETITIONER,)

VS.)

CAUSE NO. A-1569

SIDNEY FERENC, an individual,)

APPLIED RISK SERVICES, INC., f/k/a)
AEG Insurance Services, Inc., AND ITS)
OFFICERS, DIRECTORS, AGENTS,)
AND EMPLOYEES,)

APPLIED UNDERWRITERS, INC.,)
AND ITS OFFICERS, DIRECTORS,)
AGENTS, AND EMPLOYEES,)

AMERICAN EMPLOYERS GROUP,)
INC., AND ITS OFFICERS,)
DIRECTORS, AGENTS, AND)
EMPLOYEES,)

COMBINED CLAIMS SERVICES,)
INC., AND ITS OFFICERS,)
DIRECTORS, AGENTS, AND)
EMPLOYEES, and)

STRATEGIC STAFF MANAGEMENT,)
INC., AND ITS OFFICERS,)
DIRECTORS, AGENTS, AND)
EMPLOYEES,)

RESPONDENTS.)

Dec 09, 2004 ACCT# 8521 \$15,000.00
NO-INVOICE 259894 TRAN# 1388448
APPLIED RISK SERVICES, INC.
CHECK# 2110

In order to resolve this matter, the Nebraska Department of Insurance ("Department"), by and through its attorney, Keri M. Schechinger, and Respondents Sidney Ferenc, Applied Risk Services, Inc., f/k/a AEG Insurance Services, Inc., Applied

Underwriters, Inc., American Employers Group, Inc., Combined Claims Services, Inc., and Strategic Staff Management, Inc. ("Respondents"), by and through their attorney, Jeffrey Silver, mutually stipulate and agree as follows:

JURISDICTION

1. The Department has jurisdiction over the subject matter and Respondents pursuant to Neb. Rev. Stat. §§ 44-101.01, 44-302, 44-1521 et seq., 44-2001 et seq., 44-4047 et seq., 44-4901 et seq., and 44-5801 et seq.

2. Respondents Sidney Ferenc and Applied Risk Services, Inc. each hold an insurance producer's license with the Department, pursuant to the Insurance Producers Licensing Act.

3. Respondent Sidney Ferenc was the designated responsible producer for Respondent Applied Risk Services, Inc., pursuant to Neb. Rev. Stat. § 44-4053(2)(b), at all times material hereto.

4. At all times material hereto, Respondents Applied Underwriters, Inc., American Employers Group, Inc., Combined Claims Services, Inc., and Strategic Staff Management, Inc. did not hold licenses with the Nebraska Department of Insurance but have engaged in the business of insurance in the state of Nebraska.

THE PETITION

5. The Department initiated this administrative proceeding by filing a petition styled State of Nebraska Department of Insurance vs. Sidney Ferenc et al., on

June 17, 2004. A copy of the petition was served upon each of the Respondents at Respondents' addresses by certified mail, return receipt requested.

6. The petition alleges that:

a. Respondents Applied Risk Services, Inc. and Applied Underwriters, Inc. violated Neb. Rev. Stat. § 44-4903 through the following conduct:

- i. Under a Managing General Agent contract with Virginia Surety Company, an insurance company licensed to do business in Nebraska, dated January 1, 2003, attached thereto and incorporated therein by reference as Exhibit B, Respondent Applied Risk Services, Inc. and its affiliates were given authority and responsibility to engage in the business of insurance. Specifically, pursuant to Exhibit B, Virginia Surety Company, Inc. authorized Applied Risk Services, Inc. and its affiliates to act as its managing general agent as defined in the Managing General Agents Act.
- ii. Respondent Applied Risk Services, Inc. not only entered into a contract to act as a managing general agent but Respondent Applied Risk Services, Inc. and its parent company, Respondent Applied Underwriters, Inc., did in fact act as managing general agents in calendar year 2003.
- iii. Moreover, Respondent Applied Risk Services, Inc. and Respondent Applied Underwriters, Inc., continue to act as managing general agents with regard to workers' compensation insurance risks located in Nebraska and throughout the United States.
- iv. Neither Respondent Applied Risk Services, Inc. nor any of the Respondents identified in the Petition had applied for nor been issued a license to transact business as a managing general agent in the state of Nebraska at any time material thereto.
- v. Respondents Applied Risk Services, Inc. and Applied Underwriters, Inc. are in violation of Neb. Rev. Stat. § 44-4903, in that they have acted and are acting as managing general agents for Virginia Surety Company with respect to risks located in this state without being licensed as managing general agents in Nebraska.

b. Respondent Applied Risk Services, Inc. violated Neb. Rev. Stat. § 44-4904(5) through the following conduct:

- i. Neb. Rev. Stat. § 44-4904(5) prohibits any person, firm, association, or corporation from acting in the capacity of a

managing general agent unless there is in force a written contract with the insurer which contains a provision specifying that the contract may not be assigned in whole or in part by the managing general agent. However, Exhibit B provides to the contrary, in that on page 9 of the contract, Respondent Applied Risk Services, Inc. "is permitted to appoint a third party administrator to assist in adjusting claims."

- ii. Respondent Applied Risk Services, Inc. not only failed to obtain a license as a managing general agent but also operates under an agreement contrary to law, specifically Neb. Rev. Stat. § 44-4904(5).
- c. Respondent Applied Risk Services, Inc. violated Neb. Rev. Stat. § 44-4905(3) through the following conduct:
 - i. Respondent Applied Risk Services, Inc. violated Neb. Rev. Stat. § 44-4905(3), in that it appointed, encouraged, agreed, and otherwise permitted its parent company, Respondent Applied Underwriters, Inc. to solicit, sell, or negotiate workers' compensation insurance under the SolutionOne program without a license. Applied Underwriters, Inc., through its SolutionOne program, combines workers' compensation insurance with payroll and other services.
- d. Respondent Applied Risk Services, Inc. violated Neb. Rev. Stat. § 44-4905(8), pursuant to the following conduct:
 - i. Respondent Applied Risk Services, Inc. violated Neb. Rev. Stat. § 44-4905(8), in that Respondent Applied Risk Services, Inc. appointed Respondent Applied Underwriters, Inc. as a submanaging general agent, as reflected in Respondent Applied Underwriters, Inc.'s activities with respect to the SolutionOne program.
- e. Respondent Applied Underwriters, Inc., violated Neb. Rev. Stat. § 44-2002(2)(f), through the following conduct:
 - i. Respondent Applied Underwriters, Inc., a Nebraska-domiciled corporation, is not licensed as an insurer, an insurance producer, a managing general agent, or a third party administrator in the State of Nebraska.
 - ii. Respondent Applied Underwriters, Inc. is engaged, either directly or on behalf of an authorized insurer, in the business of transacting insurance in the state without a license, and in particular, is violating and has violated Neb. Rev. Stat. § 44-2002(2)(f), in that Respondent has recruited and is recruiting insurance producers in

Nebraska to sell its workers compensation program while Respondent Applied Underwriters, Inc. administers the program.

- f. Respondents Sidney Ferenc, American Employers Group, Inc., Strategic Staff Management, Inc. and Combined Claims Services, Inc. violated Neb. Rev. Stat. §§ 44-2002(2)(a),(c)-(f), through the following conduct:
 - i. Respondents Sidney Ferenc, American Employers Group, Inc., Strategic Staff Management, Inc. and Combined Claims Services, Inc. also are not and have not been licensed as insurers in the State of Nebraska at any time material hereto.
 - ii. However, between March 1, 1999 and February 2002, Respondents Sidney Ferenc, American Employers Group, Inc., Strategic Staff Management, Inc. and Combined Claims Services, Inc. directly or indirectly engaged in the marketing and or operation of an unauthorized health insurance plan in Nebraska, using the name "Omnea Group Health Care Plan," in violation of the Unauthorized Insurers Act, Neb. Rev. Stat. §§ 44-2002(2)(a), (c)-(f), in that:
 - a. Respondent Strategic Staff Management, Inc. operated as a professional employer organization ("PEO") with the majority of its business in Nebraska. In connection with the personnel services offered by Respondent Strategic Staff Management, Inc. to Nebraska employers, Respondents Sidney Ferenc, American Employers Group, Inc., Strategic Staff Management, Inc. and Combined Claims Services, Inc. sold, administered, adjusted and paid or authorized and directed the payment of health benefit claims under the "Omnea Group Health Care Plan" from offices in Omaha, Nebraska.
 - b. Approximately 765 individuals were directly impacted when the "Omnea Group Health Care Plan" terminated in 2002.
- g. Respondent Applied Risk Services, Inc. violated Neb. Rev. Stat. § 44-5812(1) through the following conduct:
 - i. At all times material hereto and at least as early as January 1, 2003, Respondent Applied Risk Services, Inc. acted as a third party administrator in Nebraska based upon conduct alleged in renumbered paragraphs 6.a.i. through 6.a.iv. above, which allegations are incorporated herein by reference and including Exhibit B.

- ii. Respondent Applied Risk Services, Inc. has not applied for nor been issued a certificate of authority to transact business as a third party administrator in the State of Nebraska.
- iii. Respondent Applied Risk Services, Inc. is in violation of Neb. Rev. Stat. § 44-5812(1), in that it has acted and continues to act as a third party administrator in connection with workers' compensation insurance coverage involving residents of Nebraska as well as residents of other states from offices in Nebraska without a valid certificate of authority issued by the Director.
- h. Respondent Sidney Ferenc violated Neb. Rev. Stat. §§ 44-4059(1)(b) and (h) based upon conduct alleged in renumbered paragraphs 6.a.i. through 6.a.v., 6.b.i., 6.b.ii., 6.c.i., 6.d.i., 6.f.i., 6.f.ii.a., 6.f.ii.b., and 6.g.i. through 6.g.iii. above, which allegations were incorporated therein by reference.

STIPULATIONS OF FACT

7. Respondents Sidney Ferenc, Applied Risk Services, Inc., f/k/a AEG Insurance Services, Inc., Applied Underwriters, Inc., American Employers Group, Inc., Combined Claims Services, Inc., and Strategic Staff Management, Inc. were informed of their right to a public hearing and have generally denied the allegations contained in the Petition, except as admitted herein. Each and every Respondent in this matter waives that right, and enters into this Consent Order freely and voluntarily. Respondents understand and acknowledge that by waiving their right to a public hearing, Respondents also waive their right to confrontation of witnesses, production of evidence, and judicial review.

8. While otherwise denying the allegations contained in the Petition, Respondent Strategic Staff Management admits that between March 1, 1999 and February 2002, it directly or indirectly engaged in the marketing and/or operation of a health benefits plan in Nebraska that was funded by Nebraska-based employers and/or

their employees using the name "Omnea Group Health Care Plan," without holding a certificate of authority as an insurer from the Department.

9. While otherwise denying the allegations in the petition Respondent Applied Risk Services, Inc. admits that it operated as a managing general agent without being licensed as such contrary to Neb. Rev. Stat. § 44-4905.

10. The Department agrees to dismiss with prejudice the remaining allegations contained in the petition filed in this matter.

11. Respondent Applied Risk Services, Inc. has applied for and obtained from the Department a license to act as a third party administrator issued pursuant to the Nebraska Third Party Administrators Act. As such, Respondent Applied Risk Services, Inc. is authorized to solicit or effect coverage of, underwrite, collect charges or premiums from, or adjust or settle claims on residents of this state or residents of another state from offices in this state, in connection with workers' compensation coverage.

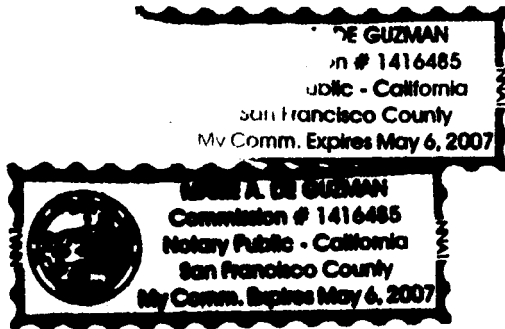
CONCLUSIONS OF LAW

The admissions of Strategic Staff Management, Inc. and Applied Risk Services, Inc., as alleged above, constitute violations of Neb. Rev. Stat. § 44-2002 and Neb. Rev. Stat. § 44-4905.

CONSENT ORDER

It is therefore ordered by the Director of Insurance and agreed to by Respondent Strategic Staff Management shall pay an administrative fine in the amount of fifteen thousand dollars (\$15,000.00). In addition, Applied Risk Services has applied for, and

On this 18TH day of NOVEMBER, 2004, SIDNEY FERENC
personally appeared before me and read this Consent Order, executed the same and
acknowledged the same to be his voluntary act and deed.



Mari A. DeG
Notary Public

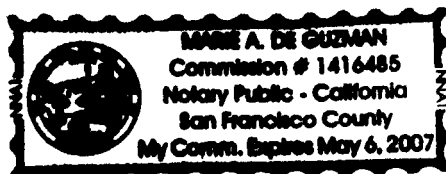
[Signature]
For Respondent, Strategic Staff
Management, Inc.

Nov. 18, 2004
Date

[Signature]
Attorney for Strategic Staff
Management, Inc.
Nov 19, 2004
Date

State of ~~Nebraska~~ CALIFORNIA
County of SAN FRANCISCO) ss.

On this 18TH day of NOVEMBER, 2004, CLAY COX
personally appeared before me and read this Consent Order, executed the same and
acknowledged the same to be his voluntary act and deed.

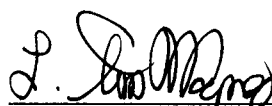


Mari A. DeG
Notary Public

CERTIFICATE OF ADOPTION

I hereby certify that the foregoing Consent Order is adopted as the Final Order of the Nebraska Department of Insurance in the matter of State of Nebraska Department of Insurance vs. Sidney Ferenc et al., Cause No. A-1569.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE



L. TIM WAGNER
Director of Insurance

11/22/04

Date

CERTIFICATE OF SERVICE

I hereby certify that a copy of the executed Consent Order was sent to the Respondents Sidney Ferenc at 10805 Old Mill Road, Omaha, NE 68154; Applied Risk Services, Inc. at 10805 Old Mill Road, Omaha, NE 68154; Applied Underwriters, Inc. at 10805 Old Mill Road, Omaha, NE 68154; American Employers Group, Inc. at 10805 Old Mill Road, Omaha, NE 68154; Combined Claim Services, Inc. at 10805 Old Mill Road, Omaha, NE 68154; Strategic Staff Management, Inc. at 10805 Old Mill Road, Omaha, NE 68154; and counsel for Respondents, Jeffrey Silver, at 10050 Regency Circle, Suite 120, Omaha, NE 68114, by certified mail, return receipt requested on this 24th day of November, 2004.

